



U.S. DEPARTMENT of STATE

Jamaica

Country Reports on Human Rights Practices - [2003](#)

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Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. Two political parties, the People's National Party (PNP) and the Jamaica Labour Party (JLP), have alternated in power since the first elections under universal adult suffrage in 1944. In the October 2002 general elections, Prime Minister P.J. Patterson's PNP won 24 of the 60 seats in Parliament. In the June 19 local elections, the opposition JLP won 12 out of 13 parish councils. The judiciary is independent but lacked adequate resources.

The Jamaica Constabulary Force (JCF) had primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defence Force (JDF--army, air wing, and coast guard) was charged with national defense, marine narcotics interdiction, and JCF support. The JDF had no mandate to maintain law and order and no powers of arrest, unless so ordered by the Prime Minister. The Prime Minister occasionally gave the JDF powers to cordon and search. The Ministry of National Security oversaw the JCF and the JDF. Civilian authorities generally maintained effective control of the security forces; however, some members of the security forces committed human rights abuses.

The market economy was based largely on tourism, production of primary products (bauxite and alumina, sugar, bananas), and remittances. The country's population was approximately 2.6 million. The economy grew by an estimated 2 percent during the year, compared with 1 percent in 2002. There remains a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Members of the security forces committed unlawful killings. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. There were reports of arbitrary arrest and detention. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. There were cases of societal discrimination against persons with disabilities, while treatment of members of the Rastafarian religion improved. Violence against individuals suspected or known to be homosexuals occurred, as did violence and discrimination against persons living with HIV/AIDS. Child labor was a problem, as was trafficking in persons.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were reportedly eight politically motivated killings during the year, committed by supporters of various political factions. The police committed some unlawful or unwarranted killings during the year.

The police frequently employed lethal force in apprehending criminal suspects. There were 127 deaths, including those of 13 police officers, during police encounters with criminals, compared with 147, including 16 police, in 2002. While allegations of "police murder" were frequent, the validity of some of the allegations was suspect. The country faced a critical crime situation with a homicide rate exceeding 37 per 100,000 persons. Well-armed gangs

that trafficked in narcotics and guns controlled many inner-city communities. The gangs often were equipped better than the police force and conducted coordinated ambushes of joint security patrols. There were targeted assaults against police officers and their families.

In October, the U.N. Commission on Human Rights released the report of the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, which stated that the country had an unacceptably high number of questionable police shootings and should hold more policemen accountable for their actions.

On May 7, members of the JCF's Crime Management Unit (CMU) killed two men and two women at a home in Crawle, Clarendon. The JCF officers involved claimed that they returned fire after someone in the home shot at them; however, witnesses to the incident disputed this claim. These allegations led to the disbanding of the CMU and the reassignment of its Senior Superintendent to a desk job. The JCF Commissioner requested foreign assistance in investigating the incident. London's Metropolitan Police Service sent detectives to investigate. On October 30, they submitted a report to the Department of Public Prosecutions (DPP), where it remained at year's end.

In November, police fatally shot two elderly men and wounded a woman in the community of Flankers, St. James. The Commissioner of Police and the Minister of National Security later apologized to the community for the incident. The police presented their findings to the DPP, where the case remained at year's end.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police (see Section 1.d.).

In July 2002, police shot and killed 7-year-old Romaine Edwards during what police said was a shoot-out with gang members in Lawrence Tavern, St. Andrew. On March 21, the Bureau of Special Investigations (BSI) submitted the case file to the DPP, where it remained at year's end.

In the case of the November 2002 police killing of Daemon Roache, the BSI was still preparing it for referral to the DPP at year's end.

During the year, at least five detainees died while in police lockups; some of the deaths involved negligence (see Section 1.c.).

On June 16, the judge presiding over the trial of the police officer charged with the 2001 murder of Dave Steele discharged the jury members after the jury foreman reportedly was seen conversing with a lawyer who was observing the proceedings on behalf of Steele's family. Although the trial was rescheduled for October, it had not resumed as of year's end.

On March 14, 2 years after the CMU shot and killed seven youths in Braeton, St. Catherine parish, Amnesty International (AI) issued a report of its own investigation into the incident, with the assistance of an independent U.K. firearms expert, stating that it found new evidence that supported the ongoing investigation of the case by the DPP. The authorities brought charges against six police officers, and their trial was expected to begin in mid-2004.

In August, the coroner's court found that the security forces were not "criminally responsible" for the 2001 death of Andrew Stephens, a JLP "don" (gang leader), which reportedly occurred in a shoot-out with police.

In May, a three-member panel of Supreme Court judges ruled that the case against the police involved in the 1999 death of Patrick Genius was insufficient for further investigation.

Vigilantism and spontaneous mob killings in response to crime continued to be a problem. There were at least 19 vigilante killings during the year, the motives for which varied--some victims were targeted, while others were the result of spontaneous mob action. On March 14, the body of an accused car thief, Ricardo Anglin, was found in a cesspool at the University of Technology where he tried to escape an angry mob. Reports indicated that the mob set fire to the grass surrounding the cesspool to prevent Anglin from escaping, and he later drowned. Human rights advocates contended that police did not consider such murders a priority and expressed concern that the perpetrators rarely were charged.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in lockups.

At year's end, the case involving accusations of police use of excessive force against demonstrators protesting the 2001 demolition of 17 squatters' homes was still pending with the DPP.

In April 2002, the DPP ruled that two police officers should be charged with wounding with intent and malicious destruction of property for a 2000 incident in which police fired on a minibus when the driver failed to stop at a roadblock. The case was still before the courts at year's end.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care were typical. There were no reports of prison riots. The majority of pretrial detainees were held in police lockups. The new Horizon Remand Center, placed under JDF control in 2002, received prisoners, which relieved some overcrowding. However, due to construction problems and staffing shortages, the facility could not receive its full capacity of 1,026 prisoners. At year's end, the Remand Center held only 500 inmates and had a skeleton staff supplemented by JCF and JDF personnel. In July, the Ministry of Health ordered the removal of approximately 65 inmates from the Spanish Town lockup due to problems with the facility's sewage system.

A separate prison for women--the Ft. Augusta Women's Prison--was housed in a 19th century fort. Sanitary conditions were poor, although far less so than in the men's prisons because there was less overcrowding. Ft. Augusta was also relatively safer and had less violence than the men's prisons. However, inmates at Ft. Augusta complained of beatings by guards.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles were held with adults. On July 16, Jamaicans for Justice, a local human rights nongovernmental organization (NGO), released a report citing incidences of rape, statutory rape, beatings, use of physical restraints, and harsh punishment against children housed in state-run "places of safety."

In January, the U.K. Privy Council upheld a 2000 Court of Appeals ruling that it was unconstitutional for juveniles to be held "at the Governor General's pleasure."

At year's end, the proceedings brought by the Public Defender seeking compensation from the Government for a prisoner who died in March 2002 at Mandeville police station as a result of being beaten by other prisoners were still pending.

At year's end, two 2002 cases of prisoners in Bull Bay and Manchester police lockups who died in police custody were still under investigation.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile

The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime. There were some reported incidents of arbitrary arrest during the year, and the authorities continued to detain suspects, particularly those from poor neighborhoods, without bringing them before a judge within the prescribed period.

Human rights organizations were satisfied with the progress of the policy requiring that each new case involving detention of persons deemed "unfit to plead" for reasons of mental illness be brought to the court's attention once per month.

The Jamaica Constabulary Force falls under the direction of the Ministry of National Security. It is headed by a Commissioner who delegates authority through the ranks to its constables. The force maintains divisions focusing on community policing, special response, intelligence gathering, and internal affairs. Generally, the JCF was effective, although corruption and impunity were problems. In June, the Government dismantled the controversial

police Crime Management Unit after another incident in which citizens were killed by police during an alleged shootout (see Section 1 a.).

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. The JCF's BSI, which employed 29 investigators, specifically addresses police shootings. The BSI completed investigations of 37 of 323 shooting incidents during the year and sent them to the DPP. The DPP ruled on 10 cases and sent 3 to criminal courts. One officer was found criminally liable. The BSI supplemented the JCF Office of Professional Responsibility, which investigated police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversaw investigations of the other two bodies and could initiate its own investigations. The PPCA had 12 investigators.

On December 8, the JCF Commissioner signed a memorandum of understanding with police officers' representatives that outlined a new policy statement on human rights and police use of force and firearms. The statement incorporated U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

The JCF continued an initiative of "community policing" to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. The Police Federation conducted lectures to educate policemen in citizens' rights. The Government, the Independent Jamaica Council for Human Rights, and foreign governments developed human rights materials to be used in all subjects at the primary and secondary levels, which were being tested in selected classrooms at year's end. Part of the test involved 1,000 coloring books, depicting human rights and corresponding responsibilities, distributed to two primary schools in the Kingston area.

In September, over a year after the Privy Council overturned Randall Dixon's 1996 conviction for murder and returned his case to the Appeals Court to determine whether he should be freed or retried, the Appeals Court ordered his release. Prison officials hampered earlier attempts to remove Dixon from death row and return him to the general prison population. Dixon was originally convicted on the word of a police officer who picked him out of a lineup, even though two other witnesses at the scene of the crime failed to identify him.

The law requires police to present a detainee in court within a reasonable time period, but the authorities continued to detain suspects beyond such a period, which the Government attributed to an overburdened court system that could not accommodate large numbers of such presentations in a timely manner (see Section 1.e.). Magistrates inquired at least once a week into the welfare of each person listed by the JCF as detained. There was a functioning bail system.

The law requires police to contact duty counsel (a private attorney who volunteers to represent detainees at police stations and until cases go to trial), if requested by the detainee, upon detention; however, the authorities continued to wait until after detainees had been identified in an identification lineup before contacting duty counsel for them.

The Constitution prohibits forced exile, and there were no reports that it occurred.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was overburdened and operated with inadequate resources.

Three courts handle criminal matters at the trial level. Resident magistrates try misdemeanors. A Supreme Court judge tries more serious felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process resulted in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The judiciary's lack of sufficient staff and resources hindered due process, and the BSI also was faced with a large backlog. On June 30, 22 state prosecutors refused to work for 3 days in an effort to improve their working conditions. Trials in many cases were delayed for years, and other cases were dismissed because files could not be located. A night court had some success in reducing the backlog of cases. The Supreme Court began using mediation through the Dispute Resolution Foundation as an alternative to traditional trials, which alleviated some of the backlog in that court. The Resident Magistrate Courts also used alternative dispute resolution in limited cases.

Defendants have the right to counsel. Legal Aid attorneys were available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for persons who have had their constitutional rights violated. The Public Defender's Office contracted private attorneys to represent clients; however, funds were insufficient to meet the demand, and attorneys sometimes requested payment from clients.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions; however, the revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure. The act allows search without a warrant of a person on board or disembarking a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. There were no allegations of unauthorized wiretapping by the police.

The 2000 case of three persons accused of wiretapping telephones without proper authorization remained pending at year's end.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The four largest newspapers, all privately owned, regularly reported on alleged human rights abuses, particularly those involving the JCF. Foreign publications were widely available. There were 3 television stations and 16 radio stations. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions were unregulated and widely available through satellite antennas and cable operators.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. There were several community protests against police actions during the year. Security personnel generally acted with restraint during public demonstrations.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Members of the Rastafarian community complained that law enforcement officials unfairly targeted them. However, it was not clear whether such complaints reflected discrimination on the basis of religious belief or due to the group's illegal use of marijuana, which is used as part of Rastafarian religious practice. In February, the Public Defender's office won a case in the Constitutional Court that gained government recognition of the religion. The Constitutional Court allowed clergy of the Church of Haile Selassie I to visit and worship with prisoners in prison chapels and to perform baptism and marriage ceremonies. The law continues to prohibit the use of marijuana as a sacrament of worship.

For a more detailed discussion, see the [2003 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2003/27904pf.htm).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the rights of free movement and travel, and the Government generally respected them in practice.

There was no specific implementing legislation providing for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and handled refugee or asylum cases administratively. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

The Government established an interagency committee and formal procedures to review claims to refugee status. As of December 18, there were 18 pending claims for asylum.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties faced substantial influence and pressure from politically connected gangs and young men hired by political parties, which impeded the free exercise of their right to vote. Although there is a history of political violence and killings in the period leading up to elections, the June 19 local elections were less violent than previous elections. There were few reports of intimidation of voters and party agents.

Two political parties--the PNP and the JLP--have alternated in power since the first elections in 1944. Since the October 2002 general elections, the PNP holds 34 of the 60 seats in Parliament. In the June elections, the opposition JLP won 12 of the 13 parish councils.

Improvements in the electoral system, including introduction of new voter's identification cards, the inclusion of voter's pictures on the voter's list, and fingerprinting of voters at registration helped to reduce fraudulent voting.

There were no legal restrictions on the participation of women in politics. Women held approximately 8 percent of all political offices and 30 percent of the senior civil service positions. Three of the 17 cabinet members were women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operated without government restriction, investigating and publishing their findings on human rights cases, and government officials generally were cooperative and responsive to their views.

The Independent Jamaica Council for Human Rights was the country's only formal organization concerned with all aspects of human rights. The NGO Jamaicans for Justice, created in 1999 in response to concerns about police impunity, focused on the issues of extrajudicial killing and excessive use of force by the police and wrote a weekly newspaper column. Jamaicans for Justice reported that undercover police regularly attended its meetings; nevertheless, the group professed to have a cordial relationship with the police and sat on two of the police consultative boards.

In February, representatives of several local NGOs concerned with police abuse were denied entry to a press conference given by Asma Jahongir, the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions.

The Public Defender's Office brings cases on behalf of those who charged that their constitutional rights were violated. The office incorporated the former post of Parliamentary Ombudsman, which was intended to provide citizens protection against abuses of state power and damage caused by unjustifiable administrative inaction, and expanded that role to include protection of citizens whose constitutional rights were infringed. The office contracted private attorneys to bring suits against the Government on behalf of private citizens. During the year, the Public

Defender began working on an overall anti-discrimination bill, which would create an Anti-Discrimination Commission to make decisions about grievances. The Public Defender also sought compensation for the families of victims killed during the 2001 shoot-out in Tivoli Gardens, West Kingston between members of the community, the JCF, and the JDF. A class-action lawsuit was pending at year's end.

On March 31, the Government launched the Corruption Prevention Commission, a governmental body with responsibility to investigate allegations of acts of corruption committed by public officials. In addition, the commission requires certain categories of public servants, including all police and military personnel, those working in customs, immigration and revenue collection, and officials making over approximately \$34,000 (J\$2 million) per year, to file annual asset declarations. Under the law, individuals who do not file their declarations or who are found guilty of committing an act of corruption will face fines or imprisonment.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforced these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, particularly in the garrison communities (see Section 3).

The Jamaica Forum for Lesbians, All Sexuals, and Gays continued to report allegations of human rights abuses, including police harassment, arbitrary detention, mob attacks, stabbings, harassment of gay patients by hospital and prison staff, and targeted shootings of homosexuals. During the year, the United Kingdom granted one gay Jamaican asylum based on his fear of persecution, and other such asylum applications reportedly were pending. Individuals committed acts of violence against suspected homosexuals; for example, in July three men chased a homosexual into a restaurant and began beating him. When the restaurant's security guard discovered that the man was homosexual, he joined the other men in the beating. The homosexual man freed himself and locked himself in the employee bathroom until the police arrived. Although the police took a report, they did not follow up or arrest anyone in relation to the incident.

Male inmates deemed by prison wardens to be homosexual are held in a separate facility for their protection. The method used for determining their sexual orientation is subjective and not regulated by the prison system. There were numerous reports of violence against homosexual inmates, perpetrated both by the wardens and by other inmates, but few inmates sought recourse through the prison system.

Homosexual men were hesitant to report incidents against them because of fear for their physical well-being. Human rights NGOs and government entities agreed that brutality against homosexuals, both by police and private citizens, was widespread in the community.

No laws provide protection against discrimination for persons living with HIV/AIDS. Human rights NGOs reported severe stigma and discrimination for this group. Although supplies of universal precautions were adequate in health care facilities, health care workers neglected patients with HIV/AIDS.

Women

Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women was widespread, but many women were reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. During the year, the number of reported incidents of rape increased by 2 percent; however, NGOs stressed that the vast majority of rapes were not reported. The JCF rape investigative and juvenile unit, which was headed by a female deputy superintendent, handled sex crimes. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. However, the Act only covers relationships maintained in the same household. Couples who reside in separate domiciles are not covered under this act. Breaching a restraining order is punishable by a fine of up to approximately \$200 (J\$10,000) and 6 months' imprisonment.

In January, a court gave a suspended sentence to a man in Montego Bay charged with beating his girlfriend so severely that she was blinded in one eye, and it ordered him to pay the woman's medical bills as compensation. The judge found that the man was "obviously a good and just man" because he was married with three children. The girlfriend's reputation was a mitigating circumstance in the judge's decision.

In March, a woman in Kingston freed herself from a room where her partner had held her captive for many years. She showed scars and signs of years of physical abuse and starvation. Police investigators questioned the

community about the situation. Neighbors admitted that they knew about the abuse, but they were afraid to report it to the police for fear of retribution by her partner. The man accused of the abuse was still at large at year's end.

There is no legislation that addresses sexual harassment, and it was a problem. There were no reports of sexual harassment of women by the police, but some observers believed that women did not report such incidents because there was no legal remedy.

The law prohibits prostitution; however, it was widespread, especially in tourist areas.

The Constitution and the Employment Act accord women full legal equality; however, in practice women suffered from discrimination in the workplace and often earned less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Development, oversaw programs to protect the legal rights of women. These programs had limited effect but raised the awareness of problems affecting women. During the year, the Bureau completed a review of 32 laws for gender bias and forwarded its recommendations to Parliament.

There was an active community of women's rights groups. Among the major concerns of these groups were the protection of victims of sexual abuse, participation of women in the political process, and legislative reforms affecting women.

Children

The Government was committed to improving children's welfare. The Ministry of Education, Youth, and Culture was responsible for implementation of the Government's programs for children. The Educational Act stipulates that all children between 6 and 12 years of age must attend elementary school. However, due to economic circumstances, thousands of children were kept home to help with housework and avoid school fees.

There was no societal pattern of abuse of children; however, there were numerous reports of rape and incest, especially in inner cities. NGOs reported that inner city "dons" or gang leaders and sometimes even fathers initiated sex with young girls as a "right." There were 274 cases of statutory rape--sex with girls under 16--reported through September 21, a 23 percent increase over the same period in 2002. The Government expressed concern about child abuse and admitted that incidents were underreported.

Child prostitution was a problem (see Section 6.f.). Reports indicated that children were being trafficked within the country for the purposes of sexual exploitation. The Government pledged to address this problem and worked in conjunction with the International Labor Organization (ILO) International Program for the Elimination of Child Labor (IPEC). The ILO/IPEC office planned to release the findings of a survey on child labor in early 2004.

In April, the Government created the Child Development Agency (CDA) under the Ministry of Health, which combines services previously provided by the Children's Services Division, the Adoption Board, and the Child Support Division. The Agency's main objectives include advocating for children's rights, facilitating the best use of resources, improving the welfare of all children in need, and strengthening monitoring mechanisms under its control. In November, the CDA launched an action plan for orphans and other children made vulnerable by HIV/AIDS.

In July, Jamaicans for Justice issued a highly critical report about the conditions of private and state-run children's homes and places of safety, which fell under the CDA's responsibility upon its creation. The report indicated that rape, statutory rape, beatings, physical restraints and harsh punishments occurred frequently in these facilities. The Ministry of Health and the CDA pledged to address these problems, and the CDA instituted new policies and procedures to manage critical incidents in child care facilities.

The Juvenile Act addresses several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles.

Persons with Disabilities

No laws mandate accessibility for persons with disabilities, who encountered discrimination in employment and denial of access to schools. Several government agencies and NGOs provided services and employment to various groups of persons with disabilities. The Minister of State for Labor and Social Security, who is blind,

reported that out of a disabled population of approximately 250,000, only about 200 persons were gainfully employed--90 percent by the Government. The Government trained persons with disabilities for jobs within the information technology sector and added two buses equipped with hydraulic lifts for wheelchairs during the year.

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form or join a trade union, and unions functioned freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There was a spectrum of national unions, some of which were affiliated with political parties. Between 10 and 15 percent of the work force was unionized. Some companies laid off union workers then rehired them as contractors with reduced pay and benefits, a practice that is considered legal as long as workers receive severance pay. The LRIDA prohibits anti-union discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Trade unions could and did affiliate with regional or international labor organizations.

b. The Right to Organize and Bargain Collectively

There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforced the LRIDA and other labor regulations. All parties were committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handled 35 to 40 cases each year. Most were decided within 90 days, but some took longer to resolve due to the complexity of the dispute or delays requested by the parties.

Collective bargaining is denied to a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question, or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the union). The ILO Committee of Experts (COE) considered that where there was no collective bargaining agreement and where a trade union did not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contended that this would unduly lengthen negotiations.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes did occur. Striking workers could interrupt work without criminal liability but could not be assured of keeping their jobs. Other than in the case of prison guards, there was no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the ILO repeatedly criticized as overly inclusive.

There were a few strikes during the year. In October, 300 workers at 12 branches of a bank went on strike over pay disputes.

Domestic labor laws applied equally to the "free zones" (export processing zones). However, there were no unionized companies in any of the 3 publicly owned zones, which employed 7,813 workers. Organizers attributed this circumstance to resistance to organizing efforts by foreign owners in the zones, but attempts to organize plants within the zones continued. Company-controlled "workers' councils" handled grievance resolution at most free zone companies, but they did not negotiate wages and conditions with management. Management determined wages and benefits within the free zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performed them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. Prohibition of Forced or Bonded Labor

The Constitution does not specifically prohibit forced or bonded labor by either adults or children, but there were no reports that this practice occurred, other than child prostitution (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment

The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. It also prohibits children under the age of 15 from industrial employment. The police are mandated with conducting child labor inspections, and the Ministry of Health is charged with finding places of safety for children. However, according to Ministry officials, resources to investigate exploitative child labor were insufficient. Children under the age of 12 were seen peddling goods and services or begging on city streets. There were also reports that underage children were employed illegally in fishing communities and in prostitution (see Section 5).

In October, the Government ratified ILO Conventions 138 and 182, which address the minimum age for labor and the worst forms of child labor. In 2002, the Government established a National Steering Committee for the Protection of Children in conjunction with the ILO/IPEC, which was mapping out a "master strategy" to deal with child labor. As part of this, the Government undertook several sector-specific programs to study and combat child labor. These included a data collection component, awareness raising activities, and direct action to identify and withdraw children from the worst forms of child labor, particularly prostitution, fishing, tourism, and the informal sectors. An ILO adviser overseeing the project was assigned to the Labor Ministry and conducted various assessments of the problem; the results of a child labor survey were being compiled at year's end.

e. Acceptable Conditions of Work

The Government sets the minimum wage, after receiving recommendations from the National Minimum Wage Advisory Commission. The minimum wage, raised from \$25 (J\$1,200) to \$38 (J\$1,800) per week during the year, was considered to be inadequate to provide a decent standard of living for a worker and family. Most workers were paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that was observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, mainly through factory inspections. Staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates, particularly in the bauxite and alumina industry, remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

f. Trafficking in Persons

The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. Trafficking in children was a problem; a 2000 ILO study found child prostitution, involving girls as young as 10 years old, to be widespread in all parts of the country. The Government took steps to address these children in need (see Section 5).